



State of Washington
PUBLIC DISCLOSURE COMMISSION

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9:00 a.m.
September 28, 2004

MINUTES – REGULAR MEETING

Evergreen Plaza Bldg. Room 206
711 Capitol Way South
Olympia, Washington

COMMISSION MEMBERS PRESENT

Michael Connelly, Chair
Jeannette Wood, Vice Chair
Francis Martin, Secretary
Earl Tilly, Member
Jane Noland, Member

STAFF PRESENT

Vicki Rippie, Executive Director
Susan Harris, Assistant Director
Michael Smith, Chief Technology Officer
Nancy Krier, Senior Counsel
Linda Dalton, Sr. Asst. Attorney General
Ruthann Bryant, Secretary

The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Michael Connelly at 9:00 a.m. in the Evergreen Plaza Building, Room 206, Olympia, Washington.

Commissioner Comments

Commissioner Connelly noted that the Center for Public Integrity has ranked Washington State number one in the nation for its campaign finance disclosure program and expressed his appreciation to staff for their hard work. He also discussed the process for dismissal of complaints with concurrence of the chair.

Citizen Comments/Concerns

No citizen comments or concerns were expressed.

Minutes

Commissioner Connelly noted a typo in the minutes of September 9th. In Motion 05-014 the word violation should read violations.

Motion 05-015

Moved by Commissioner Martin, seconded by Commissioner Tilly:

The Commission adopts the minutes of August 24, 2004, as written and the minutes of September 9, 2004 as amended.

The motion passed unanimously.

Enforcement Matters
Report

Commissioner Connelly summarized the Commission's actions at the September 9, 2004 meeting regarding the referral of PDC Case #05-027, Voters Education Committee, Bruce Boram, Valerie Huntsberry and other Unknown Agents, to the Office of the Attorney General.

Attorney John White was present via telephone and stated he does not believe the advertisement in question constitutes speech that is subject to regulation and requested that the Commission direct dismissal of the action against the committee.

Motion 05-016

Moved by Commissioner Connelly, seconded by Commissioner Martin:

The Commission affirms its September 9th referral of PDC Case #05-027, Voters Education Committee, Bruce Boram, Valerie Huntsberry and other Unknown Agents to the Office of the Attorney General.

The motion passed unanimously.

Hearing
John Potter, Case #05-065

Phil Stutzman summarized the case against John Potter for alleged violations of RCW 42.17.240 and .040 by failing to timely file the Statement of Financial Affairs and Candidate Registration Statement within two weeks of becoming a candidate. Mr. Potter has been found in violation

on two prior occasions and the penalties have not been paid. A judgment has been entered in the amount of \$1,794 for the outstanding penalties.

Motion 05-017

Moved by Commissioner Noland, seconded by Commissioner Martin:

In PDC Case #05-065, John Potter, the Commission finds multiple violations of RCW 42.17.240 and 42.17.040 and assesses a penalty of \$2,500.

The motion passed unanimously.

Request to Revoke Suspended
Portion of Penalty
Patrick Alesse, Case #04-659

Phil Stutzman reported that a full enforcement hearing was held on June 22, 2004 in which Mr. Alesse was found in violation of RCW 42.17.240 for failing to timely file a Personal Financial Affairs Statement by April 15, 2004. Mr. Alesse was assessed a penalty of \$500 with \$250 suspended on the condition that the missing F1 report be filed and the non-suspended portion of the penalty be paid within 30 days from the date of the order. The report was filed on July 2nd.

Mr. Alesse paid the \$500 penalty on September 24th and provided a letter stating that although public disclosure is a good concept he is not comfortable with disclosing his personal information. He requested that the suspended portion of the penalty not be revoked.

There was no motion to revoke the suspended portion of the penalty.

Requests for Reconsideration
Gary Morgan, Case #04-690

Phil Stutzman reported that a brief enforcement hearing was held on July 22, 2004 in which Mr. Morgan was found in violation of RCW 42.17.240 by failing to timely file the Statement of Financial Affairs. He was assessed a penalty of \$400. The form was filed on June 29, 2004.

Mr. Morgan was present via telephone and stated that he filed the report electronically on April 15th. He understands that the signature needs to be on file but he believes that an unsigned report should still be accepted.

Senior Counsel Nancy Krier noted that the signature card process was adopted by many states as well as the federal government as a way to authenticate electronic filing submissions.

Motion 05-018

Moved by Commissioner Noland:

In PDC Case #04-690, Gary Morgan, the Commission upholds the violation and suspends the \$400 penalty based on no future violations for four years.

The motion died for lack of a second.

There was no further motion to reconsider this matter.

John Rankin, Case #04-641

Mr. Stutzman reported that a brief enforcement hearing was held on June 21, 2004 in which Mr. Rankin was found in violation of RCW 42.17.240 by failing to timely file the Statement of Financial Affairs. He was assessed a penalty of \$200. The form was filed on June 8, 2004.

Mr. Rankin was present via telephone and stated that he electronically filed the form during the second week of May and was unaware that he would receive an email with a confirmation number if the report was successfully filed.

The Commission requested that the penalty schedule be included with all hearing notices for clarification.

Motion 05-019

Moved by Commissioner Noland, seconded by Commissioner Wood:

In PDC Case #04-641, John Rankin, the Commission upholds the

**violation and reduces the penalty to
\$100.**

Voting For: Commissioners Noland and Wood.

Voting Against: Commissioners Connelly, Martin
and Tilly.

The motion failed.

There was no further motion to reconsider this
matter.

Wayne Washer, Case #04-703

Commissioner Connelly noted that the agenda
reflects an incorrect case number for Mr. Washer.

Phil Stutzman reported that a brief enforcement
hearing was held on July 22, 2004 in which Mr.
Washer was found in violation of RCW 42.17.240
by failing to timely file the Statement of Financial
Affairs. He was assessed a penalty of \$100. The
form was filed on July 21, 2004.

Mr. Washer provided a letter stating that his
interpretation of RCW 42.17.240(9) says that this
statute does not apply if you are an incumbent, or
a candidate for federal office.

Susan Harris clarified that the statute does not
apply to incumbents for federal office but does
apply to state and local office incumbents.

There was no motion to reconsider this matter.

Dwight Thompson, Case #04-639

Mr. Stutzman reported that a brief enforcement
hearing was held on June 21, 2004 in which Mr.
Thompson was found in violation of RCW
42.17.240 by failing to timely file the Statement of
Financial Affairs. He was assessed a penalty of
\$150. The F1 was received on August 9, 2004.

Mr. Stutzman noted that this reconsideration was
originally heard at the Commission's August 24th
meeting, but was held over for one month for the
purpose of obtaining further information regarding
Mr. Thompson's schedule while on active duty.

Senior Counsel Nancy Krier summarized draft Interpretation 04-03, Servicemembers Civil Relief Act and PDC Filings, which is based on a federal law that protects members of the armed forces from various legal obligations while engaged in active duty.

Motion 05-020

Moved by Commissioner Martin, seconded by Commissioner Wood:

The Commission adopts PDC Interpretation 04-03, Servicemembers Civil Relief Act and PDC Filings, as presented.

The motion passed unanimously.

Commissioner Tilly noted that Mr. Thompson is stationed at Fort Lawton in Seattle and has been able to attend the majority of council meetings.

Motion 05-021

Moved by Commissioner Tilly, seconded by Commissioner Noland:

In PDC Case #04-639, Dwight Thompson, the Commission upholds the violation and suspends \$75 of the \$150 penalty based on no future violations for two years.

Voting For: Commissioners Tilly, Noland, Wood and Martin.

Abstaining: Commissioner Connelly.

The motion passed.

Reporting Modifications

Commissioner Noland requested a discussion at a future meeting to clarify the criteria for granting reporting modifications.

New
*Daniel J. Evans, Regent,
University of Washington*

Phil Stutzman reported that, for the years indicated, below Mr. Evans requests an exemption from reporting the business and other

governmental customers of entities of which he or his spouse is an officer:

- Archimedes Technology (2001-2003)
- Attachmate (2000-2004)
- Costco (2004)
- Cray Computer (formerly Tera) (2000-2003)
- Flow International (2000-2003)
- KCTS (2000-2004)
- Laboratory Advisory Committee, Battelle (2000)
- National Information Consortium (2000-2003)
- Puget Sound Energy (2000-2001)
- Seattle Symphony (2000, 2002-2004)
- Tidemark Solution (2001)
- VoiceStream (formerly Western Wireless) (2000-2003)
- Whitman College (2000-2004)

Motion 05-022

Moved by Commissioner Tilly, seconded by Commissioner Martin:

The Commission grants Daniel Evans the requested reporting modification.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

*Richard LaRosa, Member,
Indeterminate Sentence Review
Board*

Phil Stutzman noted that Mr. LaRosa is the spouse of a non-management PDC staff member.

Mr. Stutzman reported that Mr. LaRosa requests for safety reasons an exemption from listing the address of his residential property in the real estate section of the F-1 report.

Motion 05-023

Moved by Commissioner Wood, seconded by Commissioner Martin:

The Commission grants Richard LaRosa the requested reporting modification.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

*Audrey Borders, candidate for
Charter Review Commission
Board Member in Whatcom Co.*

Phil Stutzman reported that Ms. Borders requests an exemption from reporting the business and other governmental customers of Borders & Son Quality Roofing, Inc., a corporation which she owns.

Commissioner Tilly questioned the appropriateness of Ms. Borders' competitive disadvantage assertion, especially with respect to governmental customers.

Motion 05-024

Moved by Commissioner Noland, seconded by Commissioner Connelly:

The Commission grants Audrey Borders the requested reporting modification.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

Voting For: Commissioners Noland, Connelly and Martin.

Voting Against: Commissioners Tilly and Wood.

The motion passed.

*Christopher Tait, candidate for Yakima
County Superior Court Judge*

Phil Stutzman reported that Mr. Tait, who is now divorced, requests an exemption from reporting all financial information relating to his former spouse.

Motion 05-025

Moved by Commissioner Noland, seconded by Commissioner Martin:

The Commission grants Christopher Tait the requested reporting modification.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Renewal (with changes)
*Steven Hill, Regent, Washington
State University*

Phil Stutzman reported that Mr. Hill requests renewal of a previously granted modification for Corporate Council for the Arts, and is now requesting an exemption from reporting the payments that Weyerhaeuser Company, Weyerhaeuser Company International, Weyerhaeuser Foundation, Y.M.C.A. of Tacoma/Pierce County, Seattle Symphony Orchestra, and Seattle Symphony Players Pension Trust received from Washington State University. He noted that this request was held over from the August 24 meeting to allow time for legal counsel to research the conflict of interest concern raised by Mr. Hill.

Senior Counsel Nancy Krier addressed the question of whether Mr. Hill's request that he be relieved from discovering and disclosing payments

made by Washington State University to Weyerhaeuser and various non-profit entities meets the standard for a modification. Ms. Krier noted that Mr. Hill has not stated that he asked either WSU or Weyerhaeuser for the information and that his request was refused on any grounds. She added that while some of the information may already be public in nature, shifting the burden to the Commission or to the general public to discover such information is inconsistent with and frustrates the purpose of the disclosure obligation of filers under the Act.

Commissioner Connelly commented that clear and convincing evidence has not been presented that shows a manifestly unreasonable hardship.

Mr. Hill was present via telephone and stated that he believes it is a hardship to do research for the public. He also stated that he does not feel comfortable swearing that the information received by WSU is true and correct since he has no way of confirming the accuracy of that information.

Commissioner Noland requested that legal counsel review the certification language included on the F-1 form for possible amendment to address Mr. Hill's concern.

Motion 05-026

Moved by Commissioner Tilly, seconded by Commissioner Martin:

The Commission grants Steven Hill a partial reporting modification except as it relates to payments from Washington State University to Weyerhaeuser companies and foundation and to the various non-profit entities of which he is a board member or trustee.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited

modification would not frustrate the purposes of the act.

The motion passed unanimously.

*William Ruckelshaus, Chairman
Salmon Recovery Funding
Board*

Senior Counsel Nancy Krier noted that Mr. Ruckelshaus was a client of her's during the timeframe covered by the request, therefore she is unable to provide legal advice on this issue.

Phil Stutzman reported that Mr. Ruckelshaus requests a renewal of previously granted modification except that he is no longer requesting a modification for Pharmacia, Solutia and Seattle Symphony.

Motion 05-027

Moved by Commissioner Tilly, seconded by Commissioner Wood:

The Commission grants William Ruckelshaus the requested reporting modification.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

*Washington State Democratic
Central Committee*

Mr. Stutzman reported that the Washington State Democratic Central Committee requests an exemption from reporting the details of transfers made to its federal committee to pay the state committee's share of overhead and other allocable expenditures that are not for the direct benefit of specific state or local candidates or ballot propositions, that are incurred on behalf of both the state committee and the federal committee.

Paul Berendt, Chair of the Washington State Democratic Central Committee, and Annette Anderson were present and Mr. Berendt stated that the change in the request from previous years was the result of McCain-Feingold campaign finance reform.

Motion 05-028

Moved by Commissioner Martin, seconded by Commissioner Noland:

The Commission grants the Washington State Democratic Central Committee the requested reporting modification.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Washington State Republican Party

Mr. Stutzman reported that the Washington State Republican Party requests an exemption from reporting the details of transfers made to its federal committee to pay the state committee's share of overhead and other allocable expenditures that are not for the direct benefit of specific state or local candidates or ballot propositions, that are incurred on behalf of both the state committee and the federal committee.

Motion 05-029

Moved by Commissioner Martin, seconded by Commissioner Noland:

The Commission grants the Washington State Republican Party the requested reporting modification.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited

modification would not frustrate the purposes of the act.

The motion passed unanimously.

Interpretation

Doug Ellis summarized the background and history of the Guidelines for Local Government Agencies in Election Campaigns and discussed changes incorporated following a work session with stakeholders on September 22, 2004.

Jim Justin, representing the Association of Washington Cities, and Jennifer Niseman, representing the King County Library System, expressed their appreciation for the Guidelines and urged the Commission to adopt them.

Motion 05-030

Moved by Commissioner Noland, seconded by Commissioner Martin:

**The Commission adopts
Interpretation 04-02, Guidelines for
Local Government Agencies in
Election Campaigns, as presented.**

The motion passed unanimously.

Advisory Matter

Vicki Rippie reported on a request for guidance submitted by John Cerqui, Assistant General Counsel for Seattle Public Schools, asking whether RCW 42.17.130 prohibits students from using the school newspaper to endorse candidates for public office or state or local ballot measures.

Nancy Krier summarized existing case law to provide guidance on speech related activities with respect to K-12 schools.

The Commission expressed concern with making a determination before gathering more information and input from stakeholders and school districts.

Mr. Cerqui was present via telephone and expressed no objection to continuing the matter until a future meeting. He added that he

appreciates that staff and the Commission attempted to address the issue so quickly.

Discussion of Center of Governmental
Studies Campaign Finance Model
Law

Doug Ellis reported on the Center of Governmental Studies Campaign Finance Model Law. He displayed a PowerPoint presentation highlighting the ten most important disclosure provisions and how they compare with current PDC Law.

At Commissioner Noland's suggestion, the Commission agreed to consider introducing legislation related to electioneering communications. Ms. Rippie said staff would draft legislation for Commission review at the October meeting.

Staff Reports

Executive Director

Vicki Rippie summarized the status of the FY 2005 budget and briefly reported on the agency's submission of a Transition Summary for the New Administration.

Assistant Director

Susan Harris updated the Commission on brief enforcement hearings held on September 9, 2004. She also noted that a 45-day Citizen Action Letter was filed by the Evergreen Freedom Foundation alleging violations by the Washington State Labor Council.

Chief Technology Officer

Michael Smith provided an update on the development of the ORCA project.

Senior Counsel

Nancy Krier briefly summarized the status of current cases.

Executive Session

The Commission went into executive session at 12:23 p.m. to discuss pending and potential litigation with legal counsel.

Public Session/Adjournment

The Commission returned to public session at 1:05 p.m. and Commissioner Connelly adjourned

the meeting. The next meeting is scheduled for
Tuesday, October 26, 2004.

Approved by the Commission 10/26/04